IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2013 OF 2007

Sayeeda Mahmood Mahedavi .. Petitioner

V/s

The Regional Caste Verification Committee & Ors. .. Respondent

Mr.Rajiv Patil with Mr.V.V. Purwant for the petitioner.

Mr.R.D. Rane, Government Pleader for respondents no.1, 4 and 5.

Mr.I.M. Khairdi for respondent no.3.

CORAM : S.B. MHASE &
D.G. KARNIK, JJ.

DATE : 30TH JULY 2007

P.C. :

1. Heard learned counsel for the petitioner.

2. The petitioner challenges the order dated 8th March 2007 passed by the Regional Caste Verification Committee (for short "the Scrutiny Committee") rejecting the petitioner’s claim that she belongs to Julaha caste.

3. Counsel for the petitioner raised three contentions. He firstly submitted that proper opportunity of hearing was not given to the petitioner. Secondly, he submitted that at the time of hearing, two

out of the three committee members of the Caste Verification Committee were absent and therefore the order is without jurisdiction. Lastly, he submitted that the order is erroneous on merits.

4. As regards the first two contentions, it is to be noted that a notice of hearing was given to the petitioner and the petitioner was present along with her advocate for hearing. The advocate was heard. Therefore, the petitioner was not only given an opportunity of hearing but she has availed of that opportunity. No grievance was made before the Scrutiny Committee. The order of the Scrutiny Committee is signed by all the three members. Except the bare statement of the petitioner that two of the three members were not present, nothing is brought on record to substantiate the allegation. It is not in dispute that the petitioner along with her advocate was present and the advocate argued the matter. The advocate for the petitioner, who appeared before the Scrutiny Committee, has not filed any affidavit stating that two out of three members were not present. In the circumstances, the first two grounds have no merit at all.

5. As regards the merits of the impugned order, in para 10 thereof the Scrutiny Committee has observed as

follows:-

> "10. The School Leaving Certificate of the opponent (who is the petitioner herein), which has a probative value in determining the caste claim, as per the ratio laid down by Hon. Supreme Court in the case of Kum. Madhuri Patil vs. Additional Commissioner, Tribal Development (AIR 1995 SC 94), shows her caste as 'Musalman'. It is therefore clear that the opponent's contention that she belongs to 'Julaha' caste is not proved so far as this document is concerned. The school leaving certificates of sister & cousin brothers of the opponent also shows their caste as 'Musalman'. Therefore, these documents also will not be of any help to substantiate the caste claim of the opponent. It is true that the school leaving certificate of the son of the opponent shows his caste as 'Julaha'. However, in the absence of any evidence showing the caste of the opponent herself or her forefathers as 'Julaha', the school leaving certificate of her son will not be of any probative value in concluding that the opponent belongs to 'Julaha' caste."

6. In our view, the Scrutiny Committee has given

appropriate weightage to the school leaving certificate of the petitioner as well as the sister and cousin brothers of the petitioner. The school leaving certificate of the son of the petitioner is of no assistance to her as it is not shown that the petitioner's son was admitted to the school prior to the declaration of "Julaha" as other backward class. On the other hand, the earlier certificates of the petitioner and the petitioner's cousins show the caste of the petitioner as 'Musalman' and not 'Julaha'. We therefore find no error in the order of the Scrutiny Committee.

6. In the circumstances, there is no merit in the petition. Petition is rejected.

(D.G. KARNIK, J.) (S.B. MHASE, J.)